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Date 1/10/97

Surname [REDACTED]

CP:E:EO:T:2

NOV 25 1996

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

Your founder is [REDACTED] 1. He serves as [REDACTED] and is responsible for your daily operations. [REDACTED] has been involved in religious education since at least [REDACTED] when his first book, entitled "[REDACTED]," was published and distributed without charge to members of his home-based prayer-group. Additional publications and projects followed, all financed out of his personal funds. In [REDACTED], [REDACTED] discontinued his individual activities to explore creating a separate section 501(c)(3) entity to carry on similar activities.

You were incorporated on [REDACTED], under the name [REDACTED]. You changed your name to [REDACTED] by amending your Articles of Incorporation on [REDACTED]. You state that you are a "parachurch" organization initially created to promote religious education involving the beliefs and practices of the [REDACTED]. Your purposes were expanded in [REDACTED] to focus primarily on moral education rather than religious education.

Your by-laws indicate that you are a membership organization. Your members consist of contributors who make long-term donations by contributing to your endowment fund. Members are issued [REDACTED] that entitle them to vote for [REDACTED]. They also have the right to be informed of the general categories of expenditures. [REDACTED] are not

[REDACTED]

redeemable and offer no benefits other than voting. They are transferable and can be passed on at death. Your only member to date appears to be [REDACTED].

Your initial plans were to concentrate on promoting religious and moral education by publishing [REDACTED] literature on [REDACTED], [REDACTED] and [REDACTED] and presenting information in public media. The literature was to be distributed free to mission parishes of [REDACTED] jurisdictions in North America, public institutions (such as libraries and prisons) and schools (public and private). To raise funds for the free distributions, you contemplated selling publications to the general public, religious bookstores and local [REDACTED].

In [REDACTED], Mr. Maydwell developed a pilot course on ethics, [REDACTED], for presentation in the public schools. The course is based on the game "[REDACTED]." [REDACTED] is an educational board game invented by [REDACTED] and designed to demonstrate to participants the long-term benefits of following the principles commonly used in moral reasoning. It is intended to be for ethics the equivalent of [REDACTED]. [REDACTED] holds the copyrights on all material associated with the course and the game. The marketing of "[REDACTED]" appears to be the only activity you have engaged in to date.

The financial information you submitted shows that your primary source of support has been contributions from your founder, [REDACTED]. For [REDACTED] years, he has agreed to contribute \$[REDACTED] a year of which \$[REDACTED] will be immediately available. The rest will start an endowment. In the future, you contemplate receipts from both the sale of religious literature and the marketing of the [REDACTED] course and [REDACTED].

You are currently operating out of [REDACTED] home. He works for you on the average of two to eight hours per week. Because of your tight budget, he currently receives no salary. You contemplate hiring additional employees and paying salaries as soon as the budget permits.

You have asked to be classified as a church described in section 170(b)(1)(A)(i) of the Code. The information you submitted shows that you do not have a written creed of your own but adhere to the faith of the [REDACTED]. You have no religious hierarchy. You do not require Donors to renounce affiliation with other religious institutions and have no rules of discipline and no worship services. You may publish

literature to be used in religious instruction, but offer no religious instruction yourself.

Section 501(c)(3) of the Internal Revenue Code describes, in relevant part, corporations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the regulations defines the term "private shareholder or individual" to mean persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the taxpayer educated the public and local business about business fraud and the benefits

[REDACTED]

of honest business practices. The Supreme Court found that such educational purposes were charitable and beneficial to the public, however, it also found that a substantial purpose was to promote a profitable business community. The Court held that "the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Activities carried on in furtherance of a religious belief must be exclusively religious. If the activities promote some extraneous purpose, exemption may be denied. Thus the Tax Court held in Puritan Church of America, 10 CCH Tax Ct. Mem. 485 (1951), aff'd per curiam, 209 F.2d 306 (D.C. Cir. 1953), cert. den., 350 U.S. 810 (1953), that an organization dominated by one individual was not exempt as a religious organization. The Court found that one of its purposes was to carry on the founder's personal feud with a local newspaper.

Similarly, the Court in Basic Bible Church v. Commissioner, 74 T.C. 846 (1980) held that an organization did not qualify for exemption because it had the substantial nonexempt purpose of serving the private interests of its founders.

Although you have some religious and educational purposes, your primary purpose, as evidenced by your activities, appears to be the marketing of [REDACTED] course on personal ethics. [REDACTED] developed the course and the game, [REDACTED], as a purely personal endeavor and holds the exclusive copyright rights to all materials associated with the course. The course itself, if non-religious in nature. You are operated in a manner similar to a private consulting firm offering commercially available educational products. The marketing of [REDACTED] ethics course, as well as the distribution of his other publications, is not an exempt activity. Because this non-exempt activity is your primary activity and reflective of your purposes, we cannot conclude that you are operated for exclusively exempt purposes within the meaning of section 501(c)(3) of the Code. In fact, in many respects, you resemble the organizations denied exemption in Puritan Church of America, supra., and Basic Bible Church v. Commissioner, supra.

Further, your operations primarily benefit [REDACTED]. He owns all rights associated with the [REDACTED] course. He is also the author of all the literature you plan to distribute whether free or for a commercially reasonable price. Your activities have the effect of directly benefitting [REDACTED] by enhancing his reputation as a religious educator and by marketing his publications and other products. Accordingly, we

conclude that you are not organized and operated exclusively for exempt purposes because your activities serve a private rather than a public purpose within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

In addition, you were created and are totally controlled by [REDACTED]. He is also your primary contributor. Because you contemplate paying his salary and because your primary activity is marketing products in which he has exclusive personal rights to all royalties, we are unable to conclude that your net earnings do not inure to his benefit within the meaning of section 501(c)(3) of the Code.

Section 509(a) of the Code provides that a private foundation is an organization described in section 501(c)(3) of the Code, other than (1) an organization described in section 170(b)(1)(A)(i) - (vi), or (2) an organization which normally receives more than one-third of its support from voluntary contributions and gross receipts from activities which do not constitute an unrelated trade or business, excluding receipts from "disqualified persons" as defined in section 4946 of the Code.

Section 170(b)(1)(A)(i) of the Code describes a church, or an association of churches.

In American Guidance Foundation, Inc. v. United States, 490 F. Supp (D.C. Dist. Col. 1980), the Court recognized that there is no bright line beyond which certain organized activities undertaken for religious purposes coalesce into a church structure... (but that) at a minimum, a church includes a body of believers or communicants that assemble regularly in order to worship. Unless the organization is reasonably available to the public in its conduct of worship, its educational instruction, and its promulgation of doctrine, it cannot fulfill this associational role." 490 F. Supp at 306. The Court pointed to the 14 factors the Service looks to in determining church status, and stated that while some of them were relatively minor, others, such as the existence of an established congregation, an organized ministry, regular religious worship services, religious education for the young and the dissemination of doctrinal code, are of major importance.

You are not a "church" as that term is commonly understood because you do not possess many of the characteristics looked to by the courts and the Service in determining whether religious organizations qualify as churches. Among the characteristics that you do not possess are a distinct religious history, a

membership not associated with other churches or denominations, regular congregations, and regular services. Accordingly, you are not described in section 170(b)(1)(A)(i) of the Code.

Section 170(b)(1)(A)(vi) of the Code describes an organization which normally receives a substantial amount of its support from voluntary grants and governmental units. Since most of your contributions to date have been made by your creator, [REDACTED], it does not appear that you have met the one-third percentage test required for public charity status under section 170(b)(1)(A)(vi).

Section 4946 of the Code describes a disqualified person as, among others, a creator, officer, director or trustee of the foundation. Because you anticipate continuing to receive more than one third of your support from your founder, it is unlikely that you are described in section 509(a)(2).

Because you are not described in section 170(b)(1)(A)(i) or 170(b)(1)(A)(vi), you would not qualify as a publicly supported organization under section 509(a)(1) of the Code. In addition, you do not appear to be described in section 509(a)(2). In the event you were determined to be exempt under section 501(c)(3), you would be deemed a private foundation.

Based on the above analysis, we conclude that you do not qualify for exemption as an organization described in section 501(c)(3) of the Code. In addition, if you were determined to be exempt under that section, you would be classified as a private foundation under section 509(a).

You must file federal income tax returns on Form 1120 for all years you have been in existence.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

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If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED], CP:E:EO:T:2, Rm. 6138
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Leah D. E. Thompson

Leah D. Embry Thompson
Acting Chief, Exempt Organizations
Technical Branch 2

[REDACTED]

[REDACTED]

[REDACTED]